



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202-2733

MAR 28 2012

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7005 1820 0003 7453 8571  
CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7005 1820 0003 7453 8588

Ms. Traci Wolf, CEO  
The Downs at Albuquerque  
P.O. Box 8510  
Albuquerque, NM 87198

Mr. Dan Mourning, General Manager  
Expo New Mexico  
P.O. Box 8546  
Albuquerque, NM 87198

Re: Administrative Order, Docket Number: CWA-06-2012-1807  
NPDES Facility Number: NMU001778

Dear Ms. Wolf and Mr. Mourning:

Enclosed is an Administrative Order (AO) issued to the Downs at Albuquerque/ Expo New Mexico facility for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 *et seq.*). This AO is a follow-up to AO Docket Number CWA-06-2012-1761, issued to your facility by the Environmental Protection Agency (EPA) on January 17, 2012. Specifically, this AO requires your facility to submit a comprehensive plan for addressing the violations specified in the previously issued AO. The plan shall include:

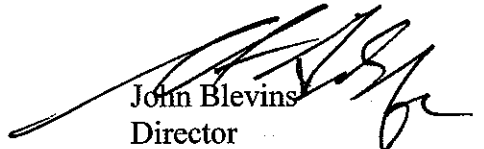
- A comprehensive written plan to eliminate the discharge of CAFO wastes to the storm sewer system;
- a schedule for implementing such a plan, which includes major milestones for the planning, design, and construction stages. The plan should also include a final compliance date for the project; and
- a cost analysis and a list of funding sources for the project.

This AO does not assess a penalty; however, it does require compliance with federal regulations within thirty (30) days of receipt of the AO. EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program, and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2012-1807 and NPDES Facility Number NMU001778 on your response.

Re: Administrative Order 2  
The Downs at Albuquerque/EXPO New Mexico

If you have any questions, please contact Dr. Abu Senkayi, of my staff,  
at (214) 665-8403.

Sincerely,



John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure

cc: James P. Bearzi  
Bureau Chief  
Surface Water Quality Bureau  
New Mexico Department of Environmental Quality  
P.O. Box 5469  
Santa Fe, NM 87502



## U.S. ENVIRONMENTAL PROTECTION AGENCY – REGION 6

### FINDINGS OF VIOLATION AND COMPLIANCE ORDER

In the Matter of the Downs at Albuquerque, Inc. and EXPO New Mexico (Respondents)

Docket Number: CWA-06-2012-1807, NPDES Facility Number: NMU001778

#### STATUTORY AUTHORITY

The following findings are made, and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Section 309(a) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who further delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

#### FINDINGS

1. The Downs at Albuquerque, Inc., is a company doing business in the State of New Mexico, and EXPO New Mexico is a political subdivision of the State of New Mexico ("Respondents"), and as such, Respondents are "persons," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

2. At all times relevant ("all relevant times") to this Order, the Respondents owned or operated the Downs at Albuquerque, Inc., located on the EXPO New Mexico fairgrounds ("facility"), and were, therefore, "owners or operators" within the meaning of 40 C.F.R. § 122.2.

3. The facility is a large Concentrated Animal Feeding Operation ("CAFO") as defined at 40 C.F.R. § 122.23(b)(4)(vi) because it stables or confines more than 500 horses for at least forty-five (45) days in any twelve (12) month period.

4. A CAFO is a "point source" as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14).

5. At all relevant times, the facility was a "point source" of a "discharge" of "pollutants" with its storm water to the receiving waters of the Rio Grande, which is considered a "water of the United States" within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2. Since there are no properly designed storm water runoff containment structures at this facility, process-generated wastewater plus storm water runoff, discharge into the Rio Grande via the City of Albuquerque Municipal Separate Storm Sewer System ("MS4") whenever significant rainfall events (greater than 0.5 inches) occur.

6. Because the Respondents "owned or operated" a facility that acted as a point source of discharges of pollutants to waters of the United States, the Respondents and the facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.

7. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

8. The Respondents, therefore, are in violation of Section 301(a) of the Act for discharging pollutants from a point source to waters of the United States without a permit.

9. On January 17, 2012, EPA issued Administrative Order number CWA-06-2012-1761 ("AO"), requiring Respondents to take all necessary measures to prevent any discharge of pollutants to waters of the United States.

10. In a letter dated February 13, 2012, EXPO New Mexico responded to EPA's AO by stating that it had "modified its operations and facilities to prevent any discharge from the site." However, this response did not include plans for designing and constructing the storm water containment structures needed by this facility.

#### ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309 of the Act, EPA hereby orders the Respondents to take the following actions:

A. Within thirty (30) days of the effective date of this Order, the Respondents shall submit to EPA a comprehensive written plan, certified by a professional engineer, for designing, constructing, operating and maintaining a storm water system to eliminate the discharge of CAFO wastes to the MS4. The plan shall include 1) project details and engineering specifications; 2) a schedule for implementation of the plan, which includes major milestones for the planning, design and construction stages and a final compliance date; and 3) a cost analysis which lists funding sources needed to implement such a plan.

B. Any approved compliance schedule will be incorporated and re-issued in a future administrative order.

C. To ask questions or comment on this matter, please contact Dr. Abu Senkayi, of my staff, at (214) 665-8403.

D. Any information or correspondence submitted by the Respondent to EPA under this Order shall be addressed to the following:

Dr. Abu Senkayi  
Water Enforcement Branch (6EN-WR)  
EPA, Region 6  
1445 Ross Ave., Suite 1200  
Dallas, TX 75202-2733

Copies of any submittals in response to this Order shall also be sent to:

Mr. James Bearzi  
New Mexico Environment Department  
Surface Water Quality Bureau  
P.O. Box 5469  
Santa Fe, NM 87502-5469

Failure to comply with this Order or the Act can result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

Compliance with the terms and conditions of this Order does not relieve the Respondent of its obligation to comply with all applicable federal, state, and local laws.

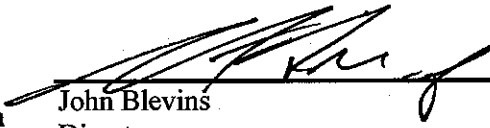
The effective date of this Order is the date it is received by Respondents.

MAR 28 2012

Date

E. Any written report sent to EPA in accordance with this Order will include the following statement:

I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations.

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

#### GENERAL PROVISIONS

Issuance of this Order shall not be deemed an election by EPA to forego any administrative or judicial, civil or criminal action to seek penalties, fines, or any other relief appropriate under the Act for the violations cited herein, or other violations that become known. EPA reserves the right to seek any remedy available under the law that it deems appropriate.